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Report of the International Atomic Energy Agency

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Identical letters dated 14 February 2003 from the Secretary-General addressed to the President of the General Assembly and the President of the Security Council

I have the honour to convey the attached communication, dated 12 February 2003, from the Director General of the International Atomic Energy Agency (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the General Assembly and of the Security Council.

(*Signed*) Kofi A. **Annan**

03-24944 (E) 140203

Annex

Letter dated 12 February 2003 from the Director General of the International Atomic Energy Agency addressed to the Secretary-General

I have the honour to refer to the implementation of the Safeguards Agreement between the Democratic People's Republic of Korea and the International Atomic Energy Agency pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

On 12 February 2003, the Agency's Board of Governors declared that the Democratic People's Republic of Korea was in further non-compliance with its obligations under its Safeguards Agreement pursuant to the NPT. The Board decided, as provided for in article XII C of the Agency's Statute, to report, through the Director General, the non-compliance of the Democratic People's Republic of Korea and the Agency's inability to verify non-diversion of nuclear material that is subject to safeguards to all members of the Agency and to the Security Council and the General Assembly of the United Nations. The Board's resolution is attached to this letter (see enclosure).

I should be grateful if you would bring the present letter and its enclosure to the attention of all Members of the General Assembly and of the Security Council.

(*Signed*) Mohamed **ElBaradei**

Enclosure

Report by the Director General on the implementation of the Safeguards Agreement pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons between the Agency and the Democratic People's Republic of Korea

Resolution adopted by the Board on 12 February 2003

The Board of Governors,

(a) Recalling its resolutions GOV/2636, GOV/2639, GOV/2645, GOV/2692, GOV/2711 and GOV/2742, and General Conference resolutions GC(XXXVII)/RES/624, GC(XXXVIII)/RES/16, GC(39)/RES/3, GC(40)/RES/4, GC(41)/RES/22, GC(42)/RES/2, GC(43)/RES/3, GC(44)/RES/26, GC(45)/RES/16, and GC(46)/RES/14,

(b) Also recalling its resolution GOV/2002/60 of 29 November 2002 and resolution GOV/2003/3 of 6 January 2003, and noting that the Democratic People's Republic of Korea (DPRK) has rejected those resolutions and the efforts of the Director General to institute a dialogue pursuant to them,

(c) Confirming that the Agency's Safeguards Agreement with the DPRK pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) remains binding and in force and that it is essential and urgent that the DPRK enable the Agency to take the necessary measures to ensure verification of compliance with that Agreement,

(d) Having considered the report of the Director General (GOV/2003/4) and in particular paragraph 10 which states that the Secretariat remains unable to verify, in accordance with the DPRK's NPT Safeguards Agreement, that there has been no diversion of nuclear material in the DPRK, and

(e) Taking account of the rights and obligations under that Agreement,

1. Expresses deep concern that the DPRK has not undertaken to co-operate urgently and fully with the Agency, and has not taken the necessary steps called for in resolution GOV/2003/3, and calls upon it to do so urgently;

2. Expresses deep concern also that the Agency is not able to verify that there has been no diversion of nuclear material subject to safeguards to nuclear weapons or other nuclear explosive devices;

3 Declares, based on the report of the Director General, that the DPRK is in further non-compliance with its obligations under its Safeguards Agreement with the Agency;

4 Calls upon the DPRK to remedy urgently its non-compliance with its Safeguards Agreement by taking all steps deemed necessary by the Agency;

5 Decides to report, as provided for in Article XII.C. of the Statute, through the Director General, the DPRK's non-compliance and the Agency's inability to verify non-diversion of nuclear material subject to safeguards, to all Members of the Agency and to the Security Council and General Assembly of the United Nations; and in parallel stresses its desire for a peaceful resolution of the DPRK nuclear issue and its support for diplomatic means to that end;

6 Requests the Director General to continue his efforts to implement the Agency's comprehensive Safeguards Agreement with the DPRK and to keep the Board informed of any significant developments; and

7 Decides to remain seized of the matter.